

IN RE: PETITION FOR ZONING VARIANCE * BEFORE THE
S/S 8th St., 233' NW c/1 * ZONING COMMISSIONER
Cuckold Point Road-Lot 130 * OF BALTIMORE COUNTY
15th Election District
Legal Owner:
Joseph Rutkowski, et ux
Contract Purchaser:
Patrick Curran

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1802.3.B. to permit a lot width of 50' in lieu of the minimum 55', as more particularly described on Petitioner's Exhibit 1.

The Petitioners appeared and testified. The Petitioners were supported in their testimony by Mr. Richard Theibert and Mr. Gerald Ruth. There were no Protestants.

The Petitioner provided testimony and evidence concerning Section 307.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) and their hardship and/or practical difficulty. However, the Petitioner offered no evidence concerning the requirements of the Chesapeake Bay Critical Area laws, specifically, Sections 307.2 and 500.14 of the B.C.Z.R.

Therefore, it would be improper to grant the relief requested without proof that all of the requirements of the law had been fulfilled. The burden placed upon the party seeking a variance is to go forward with evidence that establishes the requirements set forth in the statute. Any Petitioner that does not meet his burden of going forward must be denied the relief requested. See Anderson v. Board of Appeals, Town of Chesapeake Beach, 22 Md. App. 28, 322 A2d. 220 (1974) and McLean v. Soley, 270 Md. 208 (1973).

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the relief requested should be denied.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 23rd day of March, 1989 that the Petition for Zoning Variance from Section 1802.3.B. to permit a lot width of 50' in lieu of the minimum 55', as more particularly described on Petitioner's Exhibit 1 be and is hereby DENIED.

J. Robert Haines
ZONING COMMISSIONER FOR
BALTIMORE COUNTY

JRH:mmn
cc: Peoples Counsel
Mr. Richard Theibert, 708 Deepdene Road, Baltimore, Md. 21210
Mr. Gerald Ruth, 8812 Hinton Avenue, Baltimore, Md. 21219

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
(301) 857-5533
J. Robert Haines
Zoning Commissioner

March 22, 1989



Mr. and Mrs. Joseph Rutkowski
8137 Murray Point Road
Baltimore, Maryland 21222

RE: Petition for Zoning Variance
Case #89-373A
Legal Owner: Joseph Rutkowski, et ux
Contract Purchaser: Patrick Curran

Dear Mr. and Mrs. Rutkowski:

Enclosed please find the decision rendered on the above captioned case. The Petition for Zoning Variance has been denied, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,
J. Robert Haines
Zoning Commissioner

JRH:mmn
att:
cc: Peoples Counsel
Mr. Patrick Curran, 3113 Wellington Way, Fallston, Maryland 21047
Mr. Richard Theibert, 708 Deepdene Road, Baltimore, Md. 21210
Mr. Gerald Ruth, 8812 Hinton Avenue, Baltimore, Maryland 21219

PETITION FOR ZONING VARIANCE
TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 89-373-A
The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.B. to permit a lot width of 50' in lieu of the minimum 55'.

Property is to be posted and advertised as prescribed by Zoning Regulations.
I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

Contract Purchaser: Patrick Curran
(Type or Print Name)
Signature: Patrick Curran
3113 Wellington Way
Address
Fallston, Md. 557-9501
City and State
Attorney for Petitioner: 537 Murray Point Rd.
(Type or Print Name) Address Phone No.
Signature: Joseph Rutkowski
3113 Wellington Way 557-9501
City and State Address Phone No.
Name, address and phone number of legal owner, contract purchaser or representative to be contacted: Patrick Curran
3113 Wellington Way 557-9501
City and State Address Phone No.

ORDERED By The Zoning Commissioner of Baltimore County, this 23rd day of March, 1989, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 400, County Office Building in Towson, Baltimore County, on the 16th day of March, 1989, at 9 o'clock A.M.
J. Robert Haines
Zoning Commissioner of Baltimore County.
(over)

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District: 1524 Date of Posting: 3/19/89
Posted for: Varnico
Petitioner: Joseph Rutkowski, et ux & Patrick Curran
Location of property: 233' NW c/1, 230' NW c/1, Cuckold Pt. Rd., Lot 130
Location of Sign: Facing Rd 57, between Lot 130 & Lot 131, on property of Rutkowski
Remarks:
Posted by: J. Robert Haines
Number of Signs: 1 Date of return: 3/3/89

CERTIFICATE OF PUBLICATION

OFFICE OF
Dundalk Eagle
4 N. Center Place
P.O. Box 8936
Dundalk, Md. 21222
March 2, 1989
THIS IS TO CERTIFY, that the annexed advertisement of J. Robert Haines in the matter of Zoning Hearings - Case #89-373-A - P.O. #10427 - Reg. #M25291 - 92 was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week for one week before the 3rd day of March 1989; that is to say, the same was inserted in the issues of March 2, 1989

Kimbel Publication, Inc.
per Publisher.
By K.C. Della

CERTIFICATE OF PUBLICATION

TOWSON, MD., March 7, 1989
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on March 2, 1989.
THE JEFFERSONIAN,
S. Zebe Orlean
Publisher
P010445
reg M25290
price \$39.40

Tracking System

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Date Receipt FEE
Day Month Year Number TYPE Identification Number Council District Election District Zip Code
01/10/89 05/89 5201 01-615715 21219
Petitioner: Curran Patrick
(Last) (First) (Middle Initial)
Property Address: Lot 130 8th Street
(Number) (Street)

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE 3/16/89 ACCOUNT R-01-615-000
AMOUNT \$ 100.40
RECEIVED Joseph Rutkowski (Patrick Curran)
FOR PVA 3/16/89 89-373-A
B014*****100404 3162F
VALIDATION OR SIGNATURE OF CARRIER

89-373-A
BALTIMORE COUNTY OFFICE OF PLANNING & ZONING
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Your petition has been received and accepted for filing this 25th day of January, 1989.
J. Robert Haines
ZONING COMMISSIONER
Petitioner: Joseph Rutkowski, et ux Received by: James E. Fyfe
Petitioner's Attorney: Chairman, Zoning Plans Advisory Committee

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE 3/16/89 ACCOUNT R-01-615-000
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FOR PVA 3/16/89 89-373-A
B014*****100404 3162F
VALIDATION OR SIGNATURE OF CARRIER

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

Date: 3/8/89

Joseph Rutkowski
8137 Murray Point Road
Baltimore, Maryland 21222

Re: Petition for Zoning Variance
CASE NUMBER: 89-373-A
5/5 8th St., 231' W. c/l Cuckold Point Road
Lot 130
15th Election District - 7th Councilmanic
Legal Owner(s): Joseph Rutkowski, et ux
Contract Purchaser(s): Patrick Curran
HEARING SCHEDULED: THURSDAY, MARCH 16, 1989 at 9:00 a.m.

Dear Mr. Rutkowski:

Please be advised that \$100.40 is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THIS ORDER SHALL NOT BE ISSUED.

Please make your check payable to Baltimore County, Maryland and bring it along with the sign(s) and post(s) to the Zoning Office, County Office Building, Room 111, Townson, Maryland 21204 fifteen (15) minutes before your hearing is scheduled to begin.

Please note that should you fail to return the sign and post set(s), there will be an additional \$25.00 added to the above fee for each set not returned.

Very truly yours,

J. Robert Haines
J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

JRH:gs
cc: Patrick Curran
File

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
494-3353

J. Robert Haines
Zoning Commissioner

February 15, 1989

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Townson, Maryland as follows:

Petition for Zoning Variance
CASE NUMBER: 89-373-A
5/5 8th St., 231' W. c/l Cuckold Point Road
Lot 130
15th Election District - 7th Councilmanic
Legal Owner(s): Joseph Rutkowski, et ux
Contract Purchaser(s): Patrick Curran
HEARING SCHEDULED: THURSDAY, MARCH 16, 1989 at 9:00 a.m.

Variance to permit a lot width of 50 ft. in lieu of the minimum 55 ft.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County

cc: Chesapeake Bay Critical Area Commission
Joseph Rutkowski, et ux
Patrick Curran
File

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

March 3, 1989

Mr. Patrick Curran
3113 Wellington Way
Fallston, MD 21211

RE: Item No. 280, Case No. 89-373-A
Petitioner: Joseph Rutkowski, et ux
Petition for Zoning Variance

Dear Mr. Curran:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer
JAMES E. DYER
Chairman
Zoning Plans Advisory Committee

JED:jw

Enclosures

cc: Mr. & Mrs. Joseph Rutkowski

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Townson, Maryland 21204
494-3354

March 1, 1989

Mr. J. Robert Haines
Zoning Commissioner
County Office Building
Townson, MD 21204

Dear Mr. Haines,

The Bureau of Traffic Engineering has no comments for items number 264, 277, 278, 280, 281, 282, 283, 284, 286, 287, 288, 292, 293, 294, 295 & 296.

Very truly yours,

Michael S. Flanagan
Michael S. Flanagan
Traffic Engineer Assoc. II

MSF/lab

RECEIVED
MAR 3 1989
ZONING OFFICE

Baltimore County
Fire Department
Townson, Maryland 21204-2586
494-4500

Paul H. Reincke
Chief

February 6, 1989

J. Robert Haines, Zoning Commissioner
Office of Planning & Zoning
Baltimore County Office Building
Townson, Maryland 21204

Re: Property Owner: Joseph Rutkowski, et ux

Location: S/ side of 8th Street, 231' NW of center-
line of Cuckold Point Road
Item No.: 280
Zoning Agenda Meeting of January 24, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____
EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

(X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code," 1976 edition prior to occupancy.

() 6. Site plans are approved, as drawn.

() 7. The Fire Prevention Bureau has no comments at this time.

REVIEWER: *CH 2-14-89*
Planning Group
Special Inspection Division

NOTED &
APPROVED: *John F. O'Neill*
Fire Prevention Bureau

/s/

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines
TO: Zoning Commissioner

Date: March 6, 1989

Pat Keller, Deputy Director
FROM: Office of Planning and Zoning

Zoning Petition Nos. 89-372-A (RLC, Inc.); 89-373-A (Rutkowski);
SUBJECT: 89-377-A (Serruto); and 89-388-A (Babikow)

The petitioners listed above are all requesting setback variances to allow development on lots less than 55 feet in width. In reference to these requests, staff's primary concerns are:

1. What is the impact on adjoining property?
2. Are adequate setbacks (building to building setback should be approximately 20 to 30 feet) being provided?
3. Will the reduced lot size result in requests for additional variances?

If the petitioners request(s) are granted, staff recommends the following conditions be applied:

- * All building setback lines shall be shown on the site plan and recorded by the applicant. A statement shall be included stating that all development shall conform to the setbacks as shown and additional variances shall not be granted.

PK/sf

RECEIVED
MAR 9 1989
ZONING OFFICE

CPS-008

8137 Murray Point Road
Baltimore, MD 21222

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: Mr. J. Robert Haines
Zoning Commissioner

DATE: February 2, 1989

FROM: Mr. Robert W. Sheesley

SUBJECT: Zoning Variance for Subdivision - Item #280
Joseph Rutkowski - 8th Street, Swan Point, Lot 130

The subject property is located on 8th Street, northeast of Cuckold Point Road in Swan Point. The site is within the Chesapeake Bay Critical Area and is classified as Limited Development Area.

The applicant has requested a Zoning Variance from Section 1802.3.B. to permit a lot width of 50 feet in lieu of the minimum 55 feet.

In accordance with the Chesapeake Bay Critical Area Program, all project approvals shall be based on a finding which assures that proposed projects are consistent with the following goals of the Critical Area Law:

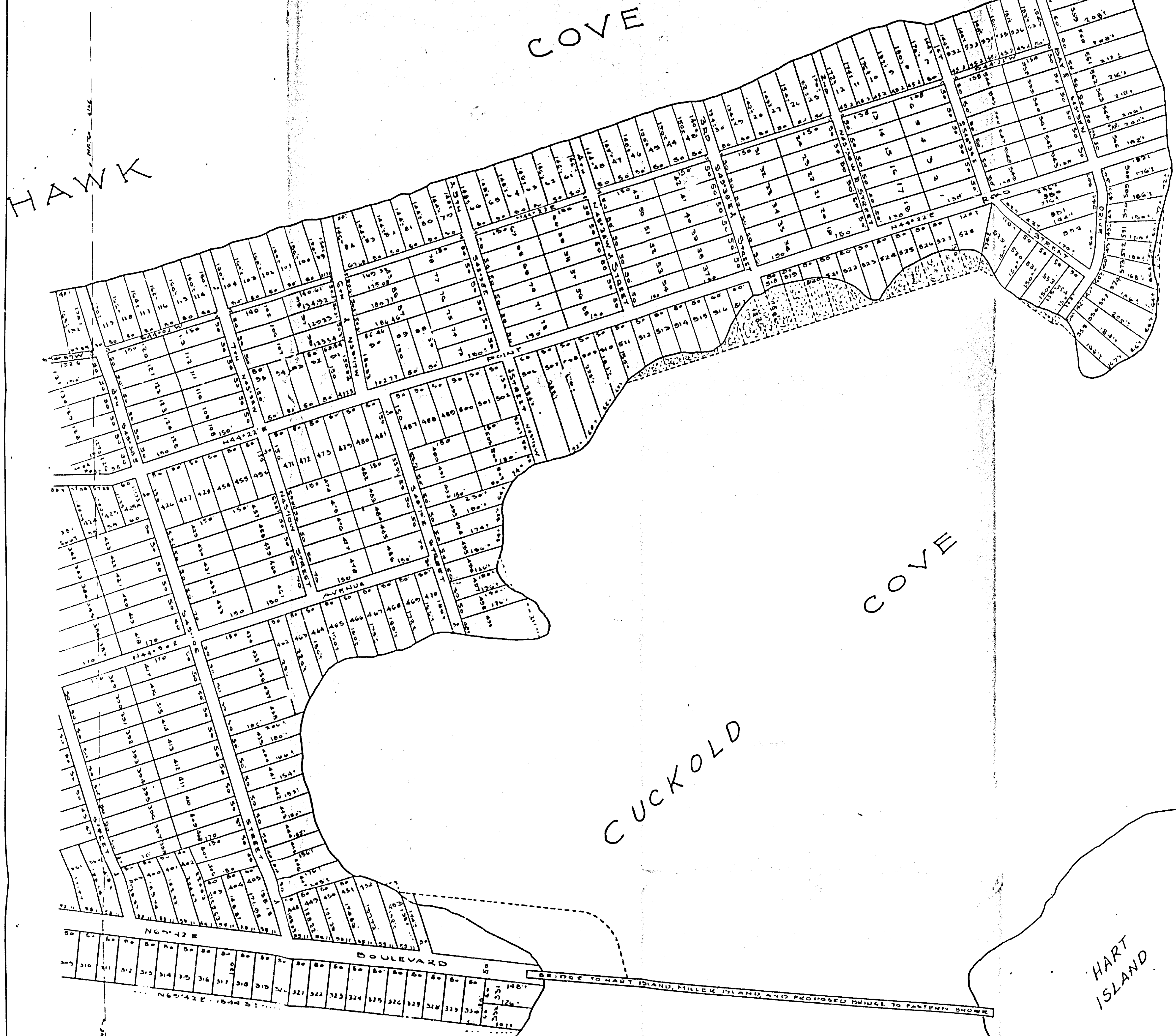
1. "Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
2. Conserve fish, wildlife and plant habitat; and
3. Establish land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts."

<COMAR 14.15.10.01>

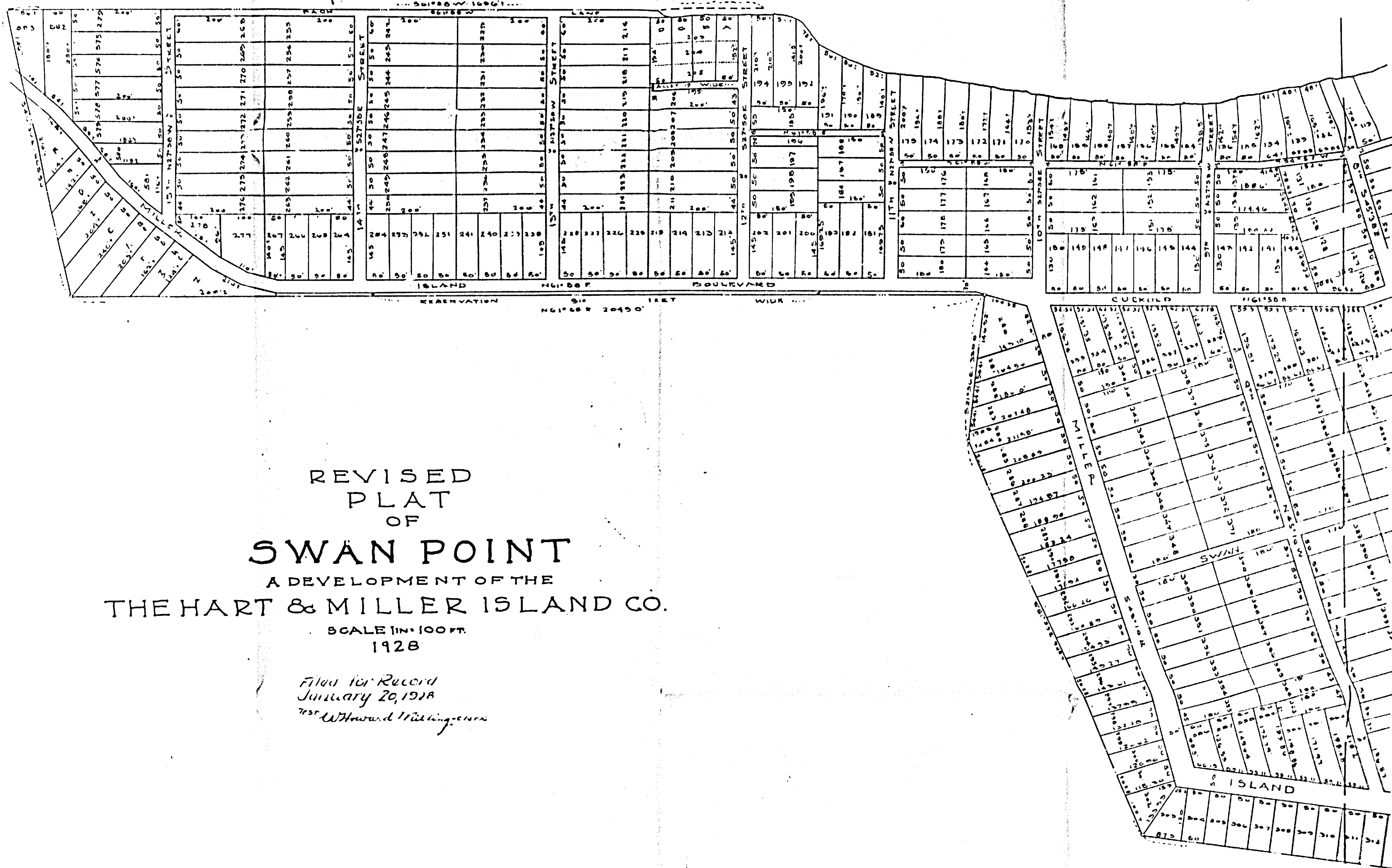
The proposed development will comply with Critical Area law provided that the zoning petition is conditioned with the following requirements:

1. The sum of all man-made impervious areas shall not exceed 15% of the lot <COMAR 14.15.02.04 C.(7)>.
2. If no forest or developed woodland exists on a proposed site, these sites shall be planted to provide forest or developed woodland cover of at least 15% <COMAR 14.15.02.04 C.(5)>.

ADDRESS
708 DESPINE, BATO 71210



HAWK



REVISED
PLAT
OF
SWAN POINT
A DEVELOPMENT OF THE
THE HART & MILLER ISLAND CO.
SCALE 1 IN. = 100 FT.
1928

Filed for Record
January 20, 1918
Test: *Whitward*